

Memorial Hall Library, Elm Sq., Andover

November 1, 2007

**APPROVED 5-8-08**

The meeting opened at 7:03 p.m. Present were McDonough & Batchelder. McDonough announced that Chair Anderson would arrive late & that they were waiting for other members in order to start the hearings. At 7:05 p.m. Jeton arrived. At 7:07 .m. Brown arrived.

PETITION NO. 3744

PETITIONER: Andover Public Schools

PREMISES AFFECTED: 80 Shawsheen Rd. (Andover High School)

MEMBERS: McDonough (Chair), Batchelder (Clerk), Jeton, Brown

Petitioner's representative, Joe Piantedosi of Plant & Facilities, had requested a continuance to 12/6/07. Jeton made a motion to continue to 12/6/07. Batchelder seconded the motion & the Board voted (4-0) to continue to 12/6/07.

Ranalli arrived at 7:14 p.m.

PETITION NO. 3741

PETITIONER: Lowe

PREMISES AFFECTED: 68 Pleasant St.

MEMBERS: McDonough, Batchelder, Jeton, Brown

McDonough explained the procedure with a 4-member Board. Mr. Lowe agreed to a 4-member Board. Mr. Lowe represented himself & his wife in their request to construct a detached garage that would not meet the front setback. The lot is on the corner of Olde School House Lane & Pleasant St. The house was built in 1973. Olde School House Lane was constructed in 1975. They want it detached to increase the aesthetic look. A septic system is located behind the house & alternative locations are not feasible or economic. David Delude, 5 Olde School House Lane, voiced opposition to the proposal. The Board will view the property on Saturday, 11/3/07 between 8-9 a.m. and deliberate thereafter.

PETITION NO. 3727 + 3738

PETITIONER: Westaway

PREMISES AFFECTED: 326 River Rd.

MEMBERS: McDonough, Batchelder, Brown, Ranalli

This is a continued public hearing. Bruce Westaway represented himself & his wife. He agreed to a 4-member board. They received a revised plot plan that accurately depicts the proposed side setback. Brown made a motion to close the public hearing & waive a site view. Batchelder seconded the motion & the Board voted (4-0) to close the hearing & waive the view. Brown made a motion to grant a special permit under 3.3.7 with the condition that the detached garage be no closer than 15' to the side lot line, per the revised plot plan. The board voted (4-0) to grant the special permit with condition.

PETITION NO. 3745

PETITIONER: core States Engineering

PREMISES AFFECTED: 166 Salem St.

MEMBERS: McDonough, Batchelder, Jeton, Brown, Ranalli

Robert Schuler, Core States Engineering, represented Petitioner, Gasoline Merchants. They wish to relocate an existing free-standing sign due to Mass Highway road expansion. The existing sign is within the right of way. It will be moved onto the property completely, but will not meet the 10' setback. The lot is shaped triangularly. The Board discussed the lease with Mass Highway, the gas pumps, curbing & future relocations. Schuler stated that the driveway & pumps will still be under a lease with Mass Highway & that they will not have to relocate the pumps in the future. The proposed sign location is to maintain visibility on Rt. 125 in both directions. Jeton asked if the Police Dept. has reviewed the proposed sign's impact on visibility. Schuler was unaware of their review. The board waived a site view. Brown made a motion to close the hearing. Batchelder seconded the motion & the Board voted (5-0) to close the hearing. Brown stated that the unusually shaped lot with a pre-existing sign & no alternate locations is a hardship. Brown made a motion to grant a variance. Batchelder seconded the motion. The board voted (5-0) to grant the variance. Ranalli will write the decision.

PETITION NO. 3747

PETITIONER: Batchelder

PREMISES AFFECTED: 53 Red Spring Rd

MEMBERS: McDonough, Batchelder, Jeton, Brown, Ranalli

Jim Batchelder represented himself in his request to convert a pre-existing non-conforming workshop to year-round living space. The property was built in 1823 and the workshop in 1840. It is not currently heated or insulated. The lot was formerly part of 55 Red Spring Rd. It was divided by variance, which created the 13' side setback. The attached workshop is 16'x18'. There will be no change in the footprint. The Board waived a site view. Ranalli made a motion to close the hearing. Batchelder seconded the motion & the Board voted (5-0) to close the hearing. Batchelder said it can be done under a special permit. Ranalli reminded the Chair that they need to ask for public comments. Brown made a motion to re-open the public hearing. The board voted unanimously to re-open the hearing. McDonough asked for public comments. Joan Johnson, abutter at 11 Moraine St., spoke in favor. Brown made a motion to close again. Batchelder seconded the motion & the Board voted (5-0) to close the hearing again. Batchelder made a motion to grant a special permit. Brown suggested making a finding that it is not a change in use, but allowed as a matter of right & to deny it as moot. McDonough agreed. Jeton cautioned the Board that if they deny it as moot, it is uncertain petitioner will get a building permit. She suggested approving it & sending a policy letter to the Inspector of Buildings. Brown volunteered to write the letter. The Board voted (5-0) to grant a special permit.

PETITION NO. 3742

PETITIONER: Keller

PREMISES AFFECTED: 7 Fosters Pond Rd

MEMBERS: McDonough, Batchelder, Jeton, Ranalli

Brown recused himself. Attorney Paul Ross, representative, agreed to a 4-member Board. Petitioner wishes to construct a new single family dwelling on a lot that lacks frontage on a public way. They wish to split the lot & construct a dwelling that would conform to setbacks. The rear lot would be conveyed to AVIS. Photos of the existing ranch house were submitted to the Board. The new dwelling's floor area would be 3600 sq. ft. The hardship is the lack of frontage on a lot created prior to the Town's zoning. Ranalli asked if other variances/special permits have been granted on the street for demolitions & reconstructions. There have been, all with the same lack of frontage. Jeton asked about the conveyance to AVIS. AVIS will buy the 1.26 acres. Susan Stott, 4 Robandy Rd., AVIS Trustee, informed the Board that the land will be added to the Wilkinson Reservation, which is directly behind the lot. Mr. Keller has spoken with the neighbors on both sides, adding that he lives on the street & also demolished & rebuilt his own house. McDonough asked the size of his house. It is 2900 sq. ft. Mrs. Kropiwinicki, Rattlesnake Hill Rd., spoke in favor. Ranalli made a motion to close the hearing. Jeton seconded the

motion & the Board voted (4-0) to close the hearing. Batchelder made a motion to grant a variance. Jeton seconded the motion the board voted (4-0) to grant a variance. McDonough will write the decision.

PETITION NO. 3743

PETITIONER: Andover Realty Trust (Gutierrez Companies)

PREMISES AFFECTED: 5 Campanelli Drive

MEMBERS: McDonough, Batchelder, Jeton, Brown, Ranalli

Attorney Carl King represented the petitioner's request to construct a 3-story office building with associated parking that would not meet setback requirements. It is located in the Industrial D District. King submitted a summary to the Board. Jason Denoncourt, of Gutierrez Companies, and Bill Jones, Engineer with John Crowe Associates, were also present. The lot is 15+ acres with extensive wetlands. The proposed building would have 125,000 sq. ft. floor area of rental office space. Parking & setbacks can't be met because the lot abuts residential property located on River Rd. The nearest structures are 5-600' from the parking area, but the edge of the residential lot is within 100'. Hardship is related to soil conditions, shape & topography. Also, a smaller building would be a financial hardship. The proposed would not be detrimental & dense woods screen the residential lots, but additional screening is proposed per the abutter's wishes. To the right the Marriott Hotel abuts the lot. Brown pointed out that the by law requires a 100' setback from all lot lines. King argued that the intent isn't to restrict commercial properties, but protect residential properties. King reminded the Board that the Planning Board would have to review the project & would impose conditions. Ranalli confirmed that the proposed building would be setback 155' from the residential lot & asked for alternative parking configurations. King explained that they would need to have space for reserve parking & storm water basins. Brown inquired if the building complied with all zoning regulations, how large could it be. King stated the maximum building could be 100,000 sq. ft. if the 100' setback to the residential property were met. If it were met to all lot lines, the building could be 50-75,000 sq. ft. Jeton asked what would happen with the wetlands & beavers due to the construction. King noted that the road would constrain both. The Board also discussed landscape buffering internal to the site & enclosing parking with the buffer. Nancy Godek, abutter at 65 River Rd., pointed out that her lot wraps around 71 River Rd (her sister-in-law, Alison Godek's lot) & that most conversations with the property owner were with Alison. She voiced concern over increased impervious area, noise, drainage, & vapor from the school, expecting the same from a new office building. King explained that storm water management requires them to decrease the run-off & that it would run away from the residential properties. Petitioners have met with Planning & Building, but not Conservation. There was no IDR. Brown asked how many parking spaces would be near the residential properties. Bill Jones stated approximately 100 spaces. Batchelder argued that they could meet the 100' setback near residential lots with a 100,000 sq. ft. building. Denoncourt reiterated the unfeasibility of a 100,000 sq. ft. building. Moira Conrad, 82 North St., asked about the impact of the access to town property on the Merrimack River. Susan Stott, 4 Robandy Rd., explained that the Town owns a right of way between 5 Campanelli Drive & the Vocational School. Nancy Gump, 12 Pioneer Circle, asked about light spillage onto other properties. King noted that the Planning Board controls lighting to minimize overspill onto other lots. Ed ?, 25 Somerset Dr., asked about traffic impact. King stated that Campanelli Drive can handle the traffic. Jeton explained that the Town worked with the State in the 1980's on this corridor assuming a complete build-out. Lisa Olschesky asked if there is a hardship due to expanding wetlands. There was some discussion on the percentage of land lost due to wetland expansion & the Town's outdated wetland maps. The Board will view the premises on Saturday, November 3rd between 8-9 a.m.

The Board recessed at 8:34 p.m. At 9:12 p.m. Stephen Anderson arrived.

PETITION NO. 3726 + 3746

PETITIONER: Barenboim

PREMISES AFFECTED: 11 + 13 Bateson Drive

MEMBERS: Anderson, McDonough, Batchelder, Jeton, Brown, Ranalli

Attorney Mark Johnson, representative, waived the reading of the legal notice. He gave an overview of the hearing process to date noting that they filed a second petition to include the adjustment of the lot line between the two properties at 11 + 13 Bateson Dr. Anderson asked if the lot line change is necessary or a protection. Johnson explained that it is a question of the side setback to the existing house & what applies to the vacant lot, if the minimum area required is under the cluster or zoning district regulations. They are assuming the current zoning regulations for both lots. Then the question is if it is a unique situation for the Barenboims or are there other lots in the same situation (lots created in an old cluster subdivision). Johnson submitted a memo dated 11/1/07 showing that they are paying the full assessed value [as a buildable lot]. 11 Bateson Drive has the third highest assessed value of vacant lots. It appears to be the only lot for dimensional reasons that it's classified as buildable & taxed as such. Bill McLeod, engineer, stated the lot line shift would provide a 25' setback for the house on #13 & questioned if they had to comply with the upland regulation. He noted that no wetlands are on the vacant lot. He informed the Board that he designed the subdivision in the 1970's and that this lot was meant to be buildable, except that it has a rare size & shape. John Shay, 9 Bateson Dr., asked about the application, the proposed lot line change & voiced concern over the proposed house, wetland delineation & drainage issues. McLeod explained that the footprint of the new house is on the plan & would be similarly setback as #13 (100' from street). It would be approximately 60' long with an overall square footage of 3-4,000 sq. ft. Mr. Shay asked for drainage mitigation efforts to direct run-off toward street. Johnson summarized that the lot is unique in that it was created in an old cluster subdivision, has been maintained, listed & paid taxes as a buildable lot, but maybe only lot assessed as buildable that may not be due to changes in the zoning by law, causing a financial hardship. McDonough made a motion to close the public hearing. Jeton seconded the motion & the board voted (5-0) to close the hearing. Anderson suggested deliberating later in the meeting.

PETITION NO. 3724

PETITIONER: Killorin

PREMISES AFFECTED: 36 Central St.

MEMBERS: Anderson, McDonough, Batchelder, Jeton, Brown

Attorney Thomas Caffrey represented the Petitioner in this continued public hearing. He gave an overview of the significance of the National Historic Register, noting that federal involvement is required in order to carry weight, which is not this case. They have agreed to DRB review at the request of Karen Herman, Preservation Commission Chair. He reminded the Board that the 1940 decision (#55) granted a special permit for the conversion to apts. and therefore they do not have to demonstrate a hardship. William McLeod, engineer, spoke to the concerns raised about traffic, tree removal, house design & driveway location. He submitted a site plan, dated 10-30-07, depicting an access easement over 36 Central Street to the proposed lot. The house will be colonial-style. They reiterated their willingness to have DRB & Preservation Commission review the proposed house. Attorney Caffrey emphasized the social/economic/community benefit of the apt. house, that they will strive to maintain, but also that the estate needs to be settled & that they want to settle it in the best possible way, in the best interest of the Town. Anderson asked if they would agree to no further subdivision. Caffrey stated that they would agree. Attorney Jason Panos, of Devine, Millimet & Branch, representative of the Ryans, 53 School St. stated their opposition. He argued that Decision #55, condition #6 disallowed further subdivision, except lots 1 + 6 (Lot 1 being 36 Central St.) and condition #7 required the apt. house to be maintained or removed if the lot is further divided. Panos believes that the maximum number of lots that could be created, if the apt. house were demolished, would be three. Anderson asked if it would be better to have: A) the current situation, B) sale of the apt. house with 4 lots, or C) the current proposal. Panos stated that they prefer to maintain the status quo. Abby O'Hara, 63 Central St., voiced concern over the proposal &

cited section 4.1.3.2.d regarding the front setback being the average within 200', which in this case would be 67', not 35'. She also noted that slope over 35% needs to be undisturbed, where the proposal has 40% slope. She submitted a memo to the Board. Several other abutters spoke about tree removal, traffic issues & settlement of the estate. Attorney Panos informed the Board that on 10/30/07 he, along with McLeod & Attorney Robert Lavoie, also of Devine, Millimet & Branch, met with Caffrey to go over certain proposals. Caffrey emphasized that the estate does not have the option to hold the property, but must liquidate it, & that the best result would be a 1-lot subdivision with a single family dwelling on it. Anderson asked if they would agree to adhere to DRB & Preservation commission guidance. Caffrey agreed. The Board then discussed how the proposal maximizes the value of the estate & how long it's been on the market. Eric Killorin stated that it was listed for 1 1/2 yrs. ago for 6 months & primarily developers were interested. The value of the proposal to the estate is substantial (i.e. \$400-600,000). Killorin expressed desire to preserve the property as much as possible prior to its sale. Anderson suggested marketing the 8 units in the apt. house with a perpetual historic restriction. Killorin stated his openness to possibilities. Killorin & Caffrey agreed to placing perpetual historic preservation restrictions that would run with the land. Batchelder made a motion to close the public hearing. McDonough seconded the motion & the Board voted (5-0) to close the public hearing.

PETITION NO. 3740

PETITIONER: Northfield Commons

PREMISES AFFECTED: 57, 59 North St., 5, 7 Webster St.

MEMBERS: Anderson, McDonough, Bevacqua, Jeton, Brown, Ranalli

Attorney John Smolak gave an overview of the project: 88 units (single, duplex, triplex, garden style units), 22 affordable units (25%), Mass Housing - Housing Starts Program New England Fund financing. They have met with Conservation Commission & other Town Depts. Chris Huntress, landscape architect, gave an overview of the site lay-out: duplexes with porches along the streetscape, village green in the center, alley-way behind units, pedestrian oriented community, 8 single-family units, 3,000 sq. ft. club house with visitor parking, two garden style buildings with 24 units each. The affordable units will be of various types throughout the project, but their location is undetermined as yet. Two of the single-family units will be affordable. Anderson reminded the Board that they can order peer review and asked what concerns the public had: traffic, school overcrowding, property values, noise, safety access, vandalism, rodent displacement, public safety / gun club, affordability, density, light impact, open space preservation, good neighbor restriction, 700' setback for residential use near a gun club, among others. The Board expressed interest in peer reviews for traffic, economic pro form & environmental. Jeton made a motion to ask for money for a traffic peer review. Bevacqua seconded the motion & the board voted (5-0) to ask of money for a traffic peer review. Brown made a motion to ask for money for an economic peer review. Jeton seconded the motion & the Board voted (5-0) to ask for money for an economic peer review. McDonough made a motion to request an environmental peer review. Anderson cautioned the Board that it is a very broad category that can be focused on later. Anderson asked to get RFP's from the Planning Division. Smolak did not object to this, but he did ask to examine the scope. Anderson asked for a full presentation at the next meeting, as well as the answer to some questions raised at this meeting. The next meeting will be on November 11, 2007 at 7 p.m. Location will be determined. The Board adjourned the public hearing until 11/15/07 at 7 p.m. The meeting adjourned at 11:05 p.m.